

Notice of Allowability

Application No.

10/092,821

Examiner

Roland G. Foster

Applicant(s)

HARTMEIER, MARTINA K.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment, filed on 06 March 2002.
2. ☒ The allowed claim(s) is/are 1-13 (were 24-36).
3. ☒ The drawings filed on 06 March 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 03/06/02
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Allowable Subject Matter

Claims 24-36 are allowed.

Examiner's Reasons for Allowance

Claims 24-36 in the instant application are similar to claims previously allowed in parent U.S. Patent Application No. 09/189,094 (hereinafter "the parent application") now issued as U.S. Patent No. 6,404,883 to Hartmeier (hereinafter "the Hartmeier patent").¹ Specifically, the broadest independent claim in the instant application is claim 33. Instant claim 33 differs substantively from allowed claim 7 in the Hartmeier patent in that instant claim 33 recites a computer readable medium having a computer program performing functions equivalent to the method steps in claim 7. Therefore, see the examiner's previous reasons for allowance, as set forth in the parent application, for further details regarding the examiner's reasons for allowance.

Although the reasons for allowance is the same for both the instant application and the Hartmeier patent, the claims do differ enough (in ways not affecting the notice of allowance) to escape a double patenting rejection. For example, the independent claims of the instant application recite specific routines (e.g., a "first routine", "second routine", etc.) that perform specific functions that do not have a one to one correspondence with the system components and method steps in the Hartmeier. For example, compare the functions recited by each specific routine in claim 33 with the system components in claim 1 and the method steps in claim 7 of the

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Hartmeier patent. Thus, it would not have been obvious to modify the system components and method steps in the Hartmeier patent into the plurality of differing routines that perform differing functions as recited in the instant application.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

¹ The Hartmeier patent itself is a child of parent U.S. Application No. 08/670,834 (now issued as U.S. Patent No. 5,864,616), which has a priority date of June 28, 1996. Thus, the instant application has a domestic priority date going back to June 28, 1996.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roland Foster whose telephone number is (703) 305-1491. The examiner can normally be reached on Monday through Friday from 9:00 a.m. to 5:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan S. Tsang, can be reached on (703) 305-4895. The fax phone number for this group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is (703) 306-0377.



Roland G. Foster
Primary Patent Examiner
November 28, 2004